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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57206-2022 (O&M)

Date of decision: September 13, 2023

Ranjit Singh @ Jeeta

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Satnam Singh Gill, Advocate for petitioner.

Mr. Dhruv Dayal, Additional AG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.28 dated 17.02.2014, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station, City Samana, District Patiala.

2. As per the prosecution's account, on February 17, 2014, Sub-Inspector Surinderpal, along with a team of police officers, was on duty at a police barricade at the T-Point intersection on Ghagga Road in Retgarh. They were in the process of conducting vehicle checks. At approximately 7:30 p.m., a speeding car, identified as an Optra approached from the Ghagga direction. Despite receiving signals to stop, the driver of the car did not comply and instead sped through the police barricade. SI Surinderpal and his fellow officers chased the aforementioned vehicle. During the pursuit, the car collided with a tree on its left side near Harman Milk Foods Factory, as the driver was driving at an excessive speed and lost control of the vehicle. Subsequently, the driver of the car, along with two other occupants, fled the scene by taking advantage of the darkness and escaping through nearby fields. Despite their efforts, the police were unable to apprehend these individuals. Following this, SI Surinderpal and his colleagues conducted a search of the car. This search led to the discovery of four plastic bags containing poppy husk in the car's trunk (boot). Two samples, each weighing 100 grams, were extracted from these bags for further examination. The remaining bags of poppy husk were weighed, totaling 34 kilograms and 800 grams. These bags were properly sealed and seized in accordance

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with established procedures. Car was also taken into police custody. FIR was registered against unknown persons.

2.1. During investigation, father of the petitioner disclosed the car was purchased by the petitioner from Avtar Singh, who was plying the vehicle on regular basis. On 10.05.2014, investigating agency nominated the petitioner and one Gursewak Singh as accused, on the basis of statement of Sarpanch Satpal Singh of Village Retgarh, P.S. City Samana. Meanwhile, petitioner filed a petition bearing CRM-M-30591-2014 seeking grant of anticipatory bail, which was dismissed, vide order dated 15.09.2014. Petitioner still did not join investigation. Thereafter, arrest warrants of petitioner were obtained from concerned Magistrate, Samana and petitioner was declared a proclaimed offender, vide order dated 25.08.2015.

2.2. On 06.12.2021, on secret information, police party apprehended petitioner along with a motorcycle. He is in custody since then. After completion of investigation *qua* petitioner, a supplementary report under Section 173 (8) Cr.P.C. was presented against petitioner before learned trial Court on 05.04.2022.

3. Learned counsel for the petitioner submits that petitioner was declared a proclaimed offender and an FIR under Section 174-A of IPC was registered against him. He is suffering separate trial proceedings in the said FIR, and the same should not therefore, be construed as hindrance for according concession of bail to the petitioner, in the present proceedings.

3.1. Learned counsel further contends that petitioner has no concern with the alleged recovery from boot of the car. The vehicle shown to have been allegedly recovered from the spot, was recovered from the house of Avtar Singh and later on, the said vehicle was shown in damaged condition. The petitioner was neither driver nor owner of the car in question.

3.2. Learned counsel also contends that at the time of alleged recovery, no gazetted officer or Magistrate or a senior police officer was associated by the I.O.

3.3. Learned counsel further contends that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. False implication of petitioner cannot be ruled out. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses.

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4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He further argues that petitioner is a habitual offender and is involved in 04 other cases. In another case under NDPS Act, petitioner has been convicted. If released on bail, there is every likelihood of petitioner fleeing from trial proceedings and/ or tampering with evidence and influencing witnesses, given that he was declared a proclaimed offender.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. After filing of Challan qua the petitioner, charges were framed way back on 20.05.2022. Investigation *qua* petitioner is thus complete and petitioner is not required for custodial interrogation.

7. On a Court query, learned State counsel, on instructions from ASI Deepak Kumar submits that out of total 19 witnesses, 04 have been examined and 02 have been given up. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has remained in jail for around 01 year and 09 months, being behind bars since 06.12.2021.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

9. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. In any case, allegations against petitioner are matter of trial. At this stage, there appears to be a reasonable ground that petitioner may not be guilty of the alleged offence. He is unlikely to commit any offence while on bail.

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10. Petitioner is stated to be a 35-year old married person having wife and two minor children to look after who are living in sheer penury in his absence. Being family man and having fixed abode, it is unlikely that he poses any flight risk and/or will flee from the trial proceedings.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be. Given that petitioner earlier did not join investigation and had to offender, following conditions, in addition the normal ones shall be imposed by learned Court below while accepting bail bonds :

- i) petitioner shall furnish his permanent address and contact number (81968-26143 provided by his counsel herein) to the Court below and in case, he changes his address or contact number, he shall inform trial Court;
- ii) petitioner shall not leave country except with prior permission of trial Court;
- iii) petitioner shall physically report to the I.O. every fortnightly and make himself available as and when otherwise required by the Investigating officer.

13. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 13, 2023

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No